

# **MATERIAL CONTRAVENTION STATEMENT**

**SHD Planning Application**

**Lands at Broomhill Road,  
Tallaght, Dublin 24,  
D24 XA52 and Unit 51 Broomhill Road,  
Tallaght, Dublin 24, D24E124**

**On behalf of**

**Garyaron Homes Ltd.**

May 2022



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## Table of Contents

<b>1</b>	<b>INTRODUCTION</b>	<b>3</b>
<b>2</b>	<b>PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES ACT, 2016 (AS AMENDED)</b>	<b>3</b>
<b>3</b>	<b>PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)</b>	<b>4</b>
<b>4</b>	<b>MATERIAL CONTRAVENTION</b>	<b>6</b>
4.1	Building Height	6
4.2	Plot Ratio	7
4.3	Housing Mix	7
4.4	Land Use Mix/Urban Function	8
<b>5</b>	<b>JUSTIFICATION FOR MATERIAL CONTRAVENTION</b>	<b>9</b>
5.1	Project Ireland 2040: National Planning Framework	9
5.2	<i>Urban Development and Building Heights – Guidelines for Planning Authorities</i> (December 2018)	12
5.3	<i>Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2018 (Updated 2020)</i>	17
5.4	<i>Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031</i>	18
5.5	<i>South Dublin County Development Plan 2016 - 2022</i>	19
<b>6</b>	<b>CONCLUSION</b>	<b>22</b>

## 1 INTRODUCTION

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, have prepared this Material Contravention Statement on behalf of **Garyaron Homes**, Unit H2, Merrywell Business Park, Lower Ballymount Road, Dublin 12, D12XR3 for a proposed Strategic Housing Residential Development at **Broomhill Road, Tallaght, Dublin 24, D24 XA52 and Unit 51, Broomhill Road, Tallaght Dublin 24, D24E124**. For clarity, the site is located within the administrative boundary of South Dublin County Council.

The proposed development provides for 242 no. units with associated residential amenity areas and creche arranged in 4/5 blocks across 4-7 storeys in height. A full description of development is contained in the accompanying documents.

This statement details the basis for consideration of a material contravention of the Tallaght Local Area Plan 2020 in relation to the following:

- Building Height
- Plot Ratio
- Housing Mix
- Land Use Mix/Urban Function

**It is acknowledged that it is ultimately the decision of An Bord Pleanála as to whether the proposed development represents a material contravention of the County Development Plan and the Tallaght Local Area Plan, and if minded to do so, can grant permission for the proposed development by reference to the provisions of Section 37(2)(b) of the Planning and Development Act 2000 (as amended).**

## 2 PLANNING AND DEVELOPMENT (HOUSING) AND RESIDENTIAL TENANCIES ACT, 2016 (AS AMENDED)

This Statement has been prepared in compliance with Section 8(1)(a)(iv)(II) and Section 9 (6) (c) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 and Section 37 (2)(b) of the Planning and Development Act, 2000 (as amended). The relevant provisions from each of these documents is set out below:

Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016:

*“Section (8)(1) Before an applicant makes an application under Section 4(1) for permission, he or she shall –*

*(a) Have caused to be published, in one or more newspapers circulating in the area or areas in which it is proposed to carry out the strategy housing development, a notice – ...*

*(iv) stating that the application contains a statement – ...*

*(II) Where the proposed development materially contravenes the said plan, other than in relation to the zoning of the land, indicating why permission should nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.”*

An Bord Pleanála may grant permission for a development which materially contravenes a Development Plan, (other than in relation to the zoning of land), according to Section 9 (6) (a), (b) and (c) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended) which outlines the following:

*(6) (a) “Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under [section 4](#) even **where the proposed development, or a part of it, contravenes materially the development plan or local area plan** relating to the area concerned.*

*(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.*

***(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.”***

As such, we submit that the proposed scheme does not materially contravene the zoning of the lands (REGEN zoning which permits residential use under the current LAP).

We request the Board to accept this planning application as per the proposed scheme under Section 9 (6)(a) cited above.

### **3 PLANNING AND DEVELOPMENT ACT, 2000 (AS AMENDED)**

We refer to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) with regards to material contravention:

*(a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

***(2)(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that***

***(i) the proposed development is of strategic or national importance,***

***(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or***

***(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or***

***(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.***

In response to Section 32 (2)(b)(i), the development constitutes a Strategic Housing Development as defined in the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended) and as such is considered of “strategic” importance.

In response to Section 32 (b)(ii), it is considered that policies contained in the LAP conflict with national policy.

In response to Section 32 (b)(iii), we refer to Section 5.2 below regarding compliance with the National Planning Framework and the Urban Development and Building Heights Guidelines for Planning Authorities, 2018. These guidelines demands higher densities, and therefore increased heights in new development proposals designed in compact urban forms located on appropriately zoned lands adjacent to Town Centres, employment hubs and high quality public transport. National policy also recognises and promotes housing mix and tenure having regard to emerging household formations in urban areas.

It is submitted that sufficient justification is provided for in this National Policy and framing documentation to allow the Board to grant permission for the subject proposal and thus materially contravene the Local Area Plan.

This request is made on the basis that:

- The proposed development is of strategic importance given the national shortage of housing supply.
- There are conflicting objectives in the Local Area Plan 2020.
- A favourable decision for the proposal can issue given national policy and guidance on the matter of building height, plot ratio, housing mix and tenure and urban form and refers specifically to the following documents:
  - ***‘Project Ireland: National Planning Framework 2040’***
  - ***‘Urban Development and Building Height - Guidelines for Planning Authorities 2018’***
  - ***‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018’***;
  - ***‘Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031’***; and
  - ***‘South Dublin County Development Plan 2016 - 2022’***

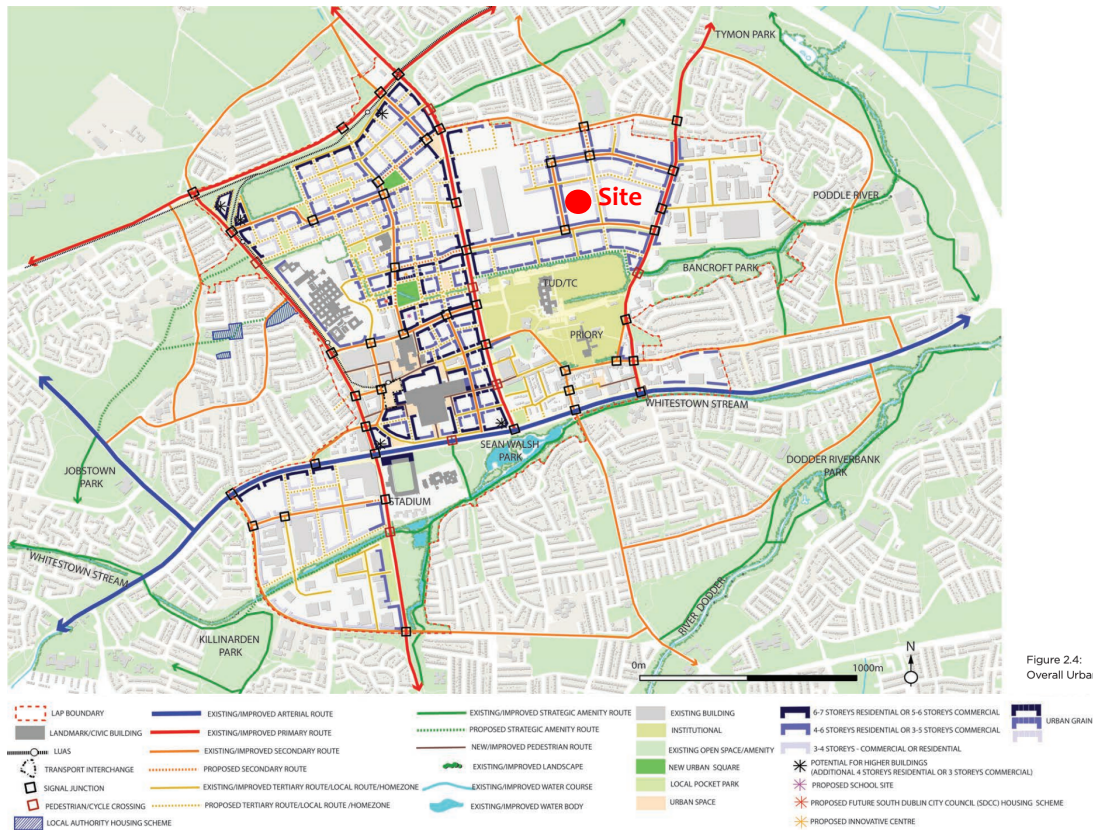
These guidelines and national policy documents have been prepared to provide for clear guidance on residential development, appropriate building height and apartment development and ultimately aim to expedite the delivery of increased building height and residential densities at appropriate locations and sites. The current site at the Broomhill Road site, is one such site. It is our considered view that the proposed development can therefore be favorably considered by An Bord Pleanála, on the basis that the proposal aligns with the national policy mandate and ministerial guidelines issued on the matter of height, plot ratio, housing mix and Land Use Function.

We now direct An Bord Pleanála to the clear justification set out in this report, which supports this position.

## 4 MATERIAL CONTRAVENTION

### 4.1 Building Height

The subject site is identified as a “secondary frontage” with recommended heights of 4-6 storeys (Residential) and 3-5 Storeys (Non-Residential) in the LAP as illustrated below. The subject proposal provides building heights of 4-7 storeys in height.



#### Building Height in Context of Overall Urban Structure – Section 2.3 of Tallaght LAP

The subject proposal will be in excess of the 6 storey height limit by one storey (total of 7 storeys at the frontage of the site), which is however consistent with the national policy mandate to allow increased building height at suitable locations that will provide an appropriate density for infill sites that are well serviced by public transport and local amenities.

The proposed development will provide for heights of 4 to 7 storeys with floor to ceiling heights in excess of 3m. While the proposal exceeds the 6 storey height maximum, it can be interpreted that a Material Contravention in respect of building height is acceptable at this location given national policy guidance on this matter.

Whilst a Material Contravention may be deemed to be occurring, we submit that this is appropriate given that Section 9 (3) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016) of the 2000 Act, provides that the requirements of an SPPR take precedence over any conflicting provisions of a Development Plan:

*“(b) where specific planning policy requirements of Guidelines referred to in sub-section 2(aa) differ from the provisions of the Development Plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the Development Plan.”*

A full justification of this matter is outlined in the following section (Section 5) of this report.

## 4.2 Plot Ratio

The subject site is located within the Broomhill Neighbourhood of the Tallaght LAP. The plot ratio range applicable to the subject site is 0.75 (minimum) - 1.0 (maximum).

The proposed plot ratio for the site is 1.6.

Section 2.6.1 of the LAP states that proposals that exceed plot ratio and building height standards need to deliver significant public gain, to be assessed on a case by case basis, by the Planning Authority.

*“Flexibility in relation to the gross floor area of up to 20% of the plot ratio ranges may generally be applicable where there is a strong design rationale for an increase in density/height and the development will result in a significant public gain.”*

A **significant public gain** includes:

- The dedication of part of the site for public open space including parks and plazas, above the standard 10% requirement for public open space on site.
- The creation of streets and links that provide access through and access to a site.
- Major upgrades to streets surrounding the site including works such as street widening, new enhanced junctions and crossing points and realignments.
- Provision of community and/or cultural amenities that will significantly contribute to the social infrastructure in the area; and/or
- Other public domain works or improvements to be agreed with the Council.”

The proposed plot ratio of 1.6 (maximum) exceeds the maximum stated figure of 1.0 and flexibility relating to gross floor area of up to 20%. However, several key planning gains are provided and we ask the Board to consider the following on a case-by-case basis:

- The public open space provision in the form of landscaped courtyard and small plaza opening out onto Broomhill Road from the proposed Café is exceeding the 10% site area requirement.
- Road and streetscape upgrade works are proposed at Broomhill Road at the entrance to the site, including new planting improving the quality of the public realm for all road users.
- Additional gym, co-working space and Café are provided within the scheme that will contribute significantly to the social infrastructure of the area;
- Significant public open space is provided within the development incorporating an enhanced public realm at the entrance to the site that includes active and passive recreation opportunities as well as play facilities for children;
- A new shared vehicular and pedestrian access road is proposed to the west of the site, enhancing and promoting permeability with adjoining sites, as the wider area develops in the future.

A full justification of this matter is outlined in the following section of this report.

## 4.3 Housing Mix

We refer the Planning Authority to objective RE2 of the LAP which states:

**Objective RE2:** *“It is policy of the Council to ensure an appropriate housing mix is provided within the LAP lands, therefore a minimum of 30% of units within any new residential development (in the form of either apartments or houses, but excluding student accommodation schemes) shall have a minimum of 3 bedrooms.”*

The proposed development provides just 5 no. 3 bed units or 2.1% of the total number of units within the development. This is considered to be reflective of housing demand requirements and is appropriate at this location.

The objective contradicts SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018 (as amended) whereby no restrictions are in place for the number of 3 bedroom units.

**Specific Planning Policy Requirement 1**

*Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and **there shall be no minimum requirement for apartments with three or more bedrooms.** Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).*

It is considered that SPPR 1 takes precedence over any conflicting policies and objectives of the LAP. Notwithstanding this, it is our opinion that it could be interpreted that a Material Contravention in respect of development mix is occurring.

A full justification of this matter is outlined in the following section of this report.

#### **4.4 Land Use Mix/Urban Function**

We refer the Planning Authority to Section 3.5, Land Use Mix/Function of the LAP which states:

*“Predominantly business, enterprise and employment area with more mixed use residential development fronting along the southern side of Airton Road, subject to integrating effectively with existing surrounding uses.”*

The LAP acknowledges the role residential development plays in the regeneration of the Tallaght LAP Area, including the Broomhill area within this setting. Objective BH1 states the following:

*“Transition to mixed use area primarily focussed on higher value commercial uses.”*

The subject site has been vacant for a number of years with no identifiable commercial tenant available. The site has therefore been identified as more appropriate for residential led use, in compliance with the REGEN zoning for the site that allows both enterprise and/or residential led regeneration within this zone. 4.3% of the floor area proposed is for other complementary uses that will add to the land use mix within this zone and enhance the local area.

The subject proposal is generally in accordance with a number of other objectives of the LAP that facilitates the regeneration of these lands including the built form, infill development and height requirements within this precinct ; the proposal seeks to provide further enhancements to the public realm through the provision of housing for a range of age groups, improved connections, provision of necessary water and waste water infrastructure, provision of sustainable drainage systems within the scheme, delivery of high quality landscaping within a central courtyard setting and public plaza, a new childcare facility and additional facilities for the local area.

The subject proposal is therefore considered to be consistent with the objectives of the Tallaght LAP by providing much needed regeneration, housing supply and upgrades to necessary infrastructure in the area. Full details are provided in Section 5 of this report.



## 5 JUSTIFICATION FOR MATERIAL CONTRAVENTION

The proposal is for 242 no. residential units and an associated mix of uses and therefore falls within the definition of a Strategic Housing Development in accordance with the definition under Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended. On this basis, we submit that the proposed development, by definition, is strategic in nature and of strategic importance.

This proposal contributes positively to the current national shortfall in housing supply. The Rebuilding Ireland Action Plan and the above 2016 Act recognise the strategic importance of larger residential developments (including those over 100 units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply.

Having regard to this legislative and policy context, it is considered that this proposed Strategic Housing Development is, by definition, of strategic importance for the purposes of section 37(2)(b) of the 2000 Act as amended.

### 5.1 Project Ireland 2040: National Planning Framework

The ‘**National Planning Framework 2040**’ sets out the following Objectives:

**National Policy Objective 3a -**

*Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.*

**National Policy Objective 3b -**

*Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.*

**National Policy Objective 6 -**

*“Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.”*

**National Policy Objective 11 -**

*“In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.”*

**National Policy Objective 13 -**

*“In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.”*

**National Policy Objective 31 -**

*Prioritise the alignment of targeted and planned population and employment growth with investment in the provision of childcare facilities and new and refurbished schools on well located sites within or close to existing built up areas that meet the diverse needs of local populations.*

**National Policy Objective 32 -**

*To target the delivery of 550,000 additional households to 2040.*

**National Policy Objective 33 -**

*Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.*

**National Policy Objective 34 -**

*“Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.”*

**National Policy Objective 35 -**

***Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.***

**National Policy Objective 74 -**

*Secure the alignment of the National Planning Framework and the National Development Plan through delivery of the National Strategic Outcomes.*

It is our considered view that the current proposal complies with the above national policy objectives.

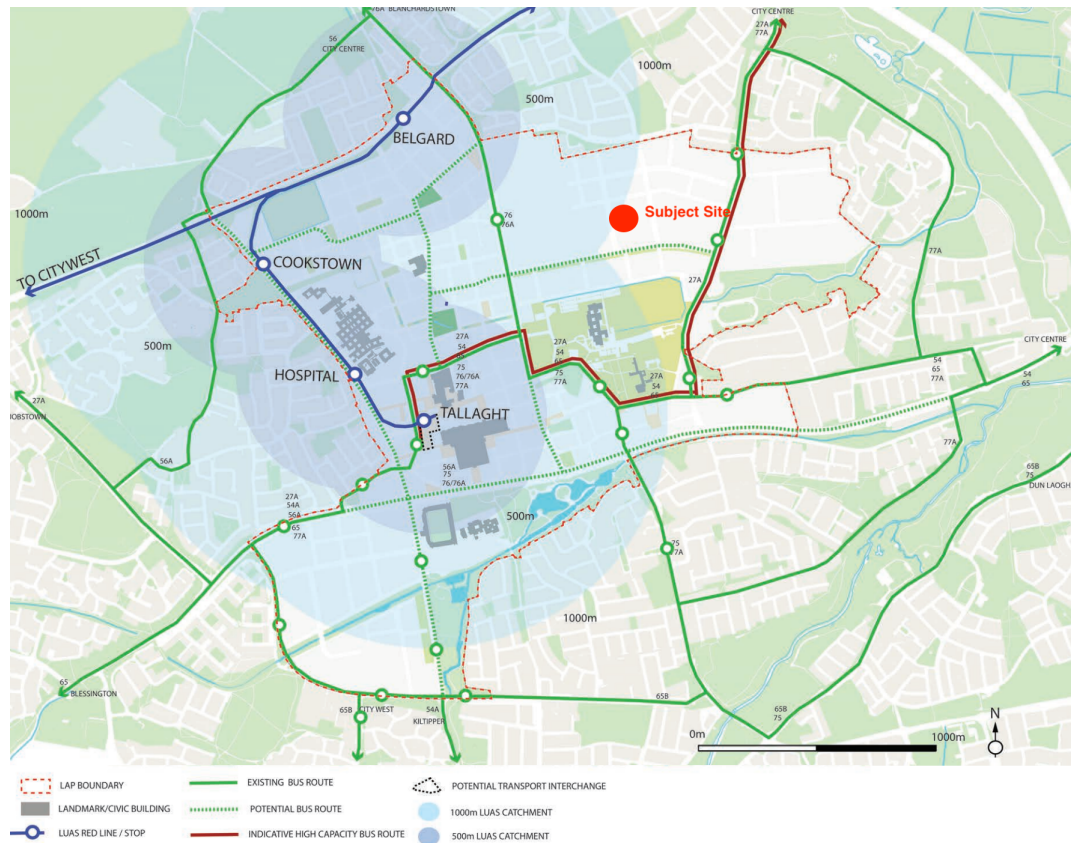
It is also apparent from the NPF that low-density housing development, and underused sites, has been a feature of Ireland’s housing landscape in cities, towns and the open countryside. To avoid urban sprawl and the pressure that it puts on both the environment and infrastructure demands, increased residential densities and building heights are required in the urban regeneration areas.

The NPF recommends the following in relation to compact urban development *“At a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.”*

The NPF sets out that the Eastern and Midlands region will, by 2040, be a Region of around 2.85 million people, at least half a million more than today. It is identified that progressing the sustainable development of new greenfield sites for housing and particularly those close to public transport corridors is key to enabling growth.

This underutilised brownfield site is capable of creating a compact urban form with increased residential densities and heights, in line with objectives of the NPF.

This is particularly the case given the site’s proximity to public transport nodes. The site has exceptional public transport accessibility with easy access to Belgard Road and Greenhills Road. We submit that Broomhill Road is a perfect example of an urban location, located in close proximity to Belgard Luas Stop and Tallaght Town Centre that can maximise these connections, and which will be further enhanced as other blocks within Tallaght LAP are developed over time, providing new links and pathways. The site is also within easy reach of numerous centres of employment such as TU Dublin and Tallaght Hospital. The location of the site in relation to surrounding Public Transport as identified in the LAP is shown below with the subject site on the edge of the 1000m walking circle from Belgard Luas Stop.



### Subject Site in Context of Surrounding Public Transport

The national planning framework promotes the creation of mixed tenure communities by stating “More affordable homes must be provided in our urban areas as part of the creation of mixed-tenure communities.”

It is submitted that the current proposal for 242 apartments in a mix of 1, 2 and 3-bed units will deliver on the above objectives of the NPF. We note specifically that the addition of 781 bed spaces, in total, is an appropriate level of development at this highly accessible site.

The site is zoned to accommodate residential development and is considered appropriately serviced with appropriate infrastructure to deliver on a sustainable form of development.

The subject proposal provides a clear opportunity for the start of the transition towards residential development that will act as a catalyst for the wider redevelopment of the industrial estate and consolidation of same. The regeneration of these lands is required to commence somewhere and the subject proposal is considered to be suitable in this regard. Surrounding uses include light industrial and business uses with emerging residential in the wider area.

The development potential of the site has been carefully assessed against the existing industrial and commercial properties in the interim before their development and finds no material impact on the residential amenity of future occupants relating to visual impact, noise pollution or sunlight/daylight impacts.

The current proposal is a well-designed, high-quality scheme and one that has carefully considered the relationship to the adjoining development sites.

Specifically, appropriate separation distances, scale and fenestration details have been incorporated into the design to ensure that the future development of these sites is not prejudiced. Equally, all internal future residential amenity is protected.

It is our view that the numerical limitations set for height and plot ratio within the LAP and stringent policies relating to housing mix and land use function contradict the national policy mandate identified within the National Planning Framework.

## 5.2 **Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)**

The publication of the ‘**Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**’ is intended to set out national planning policy guidelines on building heights in relation to urban areas. These guidelines are the most recent form of guidance from the Minister on the matter of building height and were formally adopted in December of 2018. The publication of these Guidelines is critical in that they take precedence over any conflicting policies and objectives contained within statutory plans.

We note that Section 1.14 of the document sets out the following:

*“Accordingly, where SPPRs are stated in this document, **they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.** Where such conflicts arise, such plans/ schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements.”*

We are of the view that the LAP contradicts a number of the policies, provisions and specifically the SPPRs contained within the Height Guidelines. In this regard, we ask that the Board consider the following SPPRs and their requirements as they relate to the current SHD proposal.

From the outset, it is noted that the Guidelines expressly seek to increase building heights at appropriate urban locations and adjacent to key public transport corridors.

### **SPPR1**

*“In accordance with Government policy to support increased **building height and density in locations with good public transport accessibility**, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.”*

### **SPPR 3 (A)**

*“It is a specific planning policy requirement that where;  
(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; **then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.**”*

The performance of the proposal vis-a-vis the building height criteria is further assessed below in sub-section ‘Development Management Criteria’.

Evidently, the above policies clearly support the provision of additional height at appropriate locations.

Furthermore, we note that Section 3.0 **of the Guidelines states that** in relation to the assessment of individual planning applications and appeals, it is Government policy that **building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Planning authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines:**

- Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?
- Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?
- Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

As a response to the above criteria, we note the following:

- The proposal secures the relevant objectives of the National Planning Framework. The location of the proposed development is on a brownfield site, appropriate to the level of development proposed.
- It has been clearly demonstrated in this report that some objectives of the LAP do not align with more recent policy and objectives contained within the National Planning Framework, Building Height Guidelines and the Apartment Guidelines.

#### **Development Management Criteria**

The Guidelines also clearly set out that in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority, that the proposed development satisfies a number of criteria. The relevant criteria, followed by the Applicant's response, is set out below to clearly demonstrate that the current proposal qualifies as a site that can accommodate additional building height:

#### **At the scale of the relevant city/town:**

- ***“The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.***
- ***Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.***
- ***On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.”***

#### **Applicant Response:**

- The site is well served by excellent public transport and cycle connections to and from the surrounding area. The site is within 1km of the Belgard and Kingswood LUAS stops. There are a number of bus routes within easy walking distance of the site which provide connections to key location such as Tallaght, Dun Laoghaire, UCD and Dublin City Centre.

The site is also within a 0-15 minutes' walk from a number of employment centres including Tallaght Town Centre and Technical University Tallaght which will be directly linked to this accommodation proposal.

- The proposal is not located within an architectural sensitive area. However, careful consideration has been given to the successful integration of the scheme into the existing character and topography of the site and area. The Landscape and Visual Impact Assessment prepared by Park Hood, enclosed with this request, confirms the proposal, while substantial, would result in a positive contribution to the character and urban fabric of this area in terms of landscape character

and quality due to both the low sensitivity, quality and nature of the existing site and the proposed revitalisation and new architectural character.

- Park Hood confirm in their assessment that the proposed development would not reduce the visual amenity of the surrounding area: “While recognising there are some significant local impacts the opinion is, on balance, that this proposal has no unacceptable townscape / landscape or visual effects and can be successfully absorbed into the character of this part of Dublin”.

**At the scale of district/ neighbourhood/ street:**

- ***“The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.***
- ***The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.***
- ***The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).***
- ***The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.***
- ***The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.”***

Applicant Response:

- The proposal responds to the natural and built environment for the reasons set out under the response to ‘at the scale of the relevant city/town’ above. Careful consideration has been given to the proposal in regard to how it addresses this industrial/regeneration area, the streetscape, the neighbouring properties and surrounding development. The high-quality design submitted provides an appropriate transition between the neighbouring sites, whilst delivering on appropriate street frontage along Broomhill Road.
- Careful consideration has been given to ensure that a monolithic appearance is avoided. Different materials, fenestration and massing of the building will break up the building and create interest. The stepping down in height of the building allows for this elevation to be broken into separate ‘buildings’ through materials and elevational treatment. We refer the Board to the Architectural Design Statement prepared by John Fleming Architects enclosed herewith for further details.
- There is no inland waterway or marine frontage within the current proposal. We can confirm that initial investigations have been completed in relation to flooding and which confirms that there will be no inappropriate flood risk as a result of the proposal. A detailed Flood Risk assessment can be completed at planning application stage as appropriate.
- The high-quality design proposed will ensure that the development will be legible and attractive when viewed from the wider area. Internally, the site provides pedestrian and cyclist linkages which integrates the development with the surrounding area.
- The appropriate mix of unit types and sizes will be incorporated into the proposed development in order to contribute to a currently limited market for this type of housing. The mix of 1, 2 and 3 bed apartment units will be broken down into a number of unit types to provide variety and options for future residents.

**At the scale of the site/building:**

- ***“The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.***
- ***Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings - Part 2: Code of Practice for Daylighting’.***
- ***Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.”***

Applicant Response:

- A detailed design rationale for the form, massing and height of the proposed development is set out in the enclosed Architectural Design Statement by John Fleming Architects. In addition, the Daylight/sunlight analysis demonstrates that all of the assessed units comfortably meet the BRE guidelines on average daylight factor.

The design of the subject scheme, particularly the orientation of the blocks was carefully considered to minimise the potential for overlooking and overshadowing of each other.

- The Daylight and Sunlight Assessment prepared by 3D Design Bureau, enclosed herewith, confirm that there are acceptable levels of access to natural daylight and overshadowing is minimised. In these assessments appropriate regard is given to the relevant daylight provision guides and we therefore consider the proposal to be acceptable in this regard.
- There is therefore no requirement for compensatory design solutions beyond what is proposed in the scheme in terms of a breakdown in massing, appropriate balcony depths and substantial areas of glazing to allow adequate light to penetrate into each unit.

**Specific Assessments**

The guidelines set out that to support proposals at some or all of these scales, specific assessments may be required and these may include:

- ***“Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.***
- ***In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.***
- ***An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.***
- ***An assessment that the proposal maintains safe air navigation.***
- ***An urban design statement including, as appropriate, impact on the historic built environment.***
- ***Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.”***

Applicant Response:

- The height of Blocks A and B are limited to 4-7 storeys and do not exceed 10 storeys, which in general is the definition of a tall building. The proposal does not result in a cluster of tall buildings. A full analysis of the microclimate a snot considered necessary in this instance.

- The appointed ecologists, Malachy Walsh and Partners, have prepared the appropriate assessments and documentation as part of this pre-planning application to An Bord Pleanála. An AA screening report and separately an Ecological Impact statement and Bat Survey are submitted with this application. The possibility that the subject development may have a significant impact on Natura 2000 sites may be excluded in this instance. Relevant design criteria such as appropriate glazing is incorporated where necessary to avoid impacts on bird flight paths.
- As the subject buildings are not considered to be of significant height this assessment is not required in this instance.
- An Aeronautical Assessment by O'Dwyer and Jones Design Consultants attached to this application indicates that the subject proposal will not have an adverse impact on any airfields or helicopter pads in the surrounding area.
- An Architectural Design Statement has been prepared by John Fleming Architects and is enclosed. There are no Protected Structures on site and the site is not located within an Architectural Conservation Area.
- The relevant environmental assessments have been considered. We note as per the EIAR Screening Statement enclosed herewith, an EIAR is not required. Full environmental assessments, such as an AA Screening Report and Ecological Impact Assessment have been prepared by qualified ecologists, Malachy Walsh and Partners, and are attached to this pre-planning application.

#### **SPPR 4**

***“It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:***

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;***
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and***
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.”***

The above considered, it is clear that the current proposal for residential development at the Broomhill Road site is consistent with the policies, provisions and clear objectives of the Building Height Guidelines.

The Guidelines, in line with the National Planning Framework, envisage higher densities and increased heights as an immediate response to current planning needs:

*“Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.”*

It has been demonstrated that the previous height limitations instituted by Local Authorities do not benefit planning in its current social and economic context:

*Such limits have resulted from local level concerns, like maintaining the character of an existing built-up area, for example. However, such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby*



*many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes.*

The 5-6 storey limit outlined in the LAP is contrary to the Guidelines which supports greater height subject to design parameters. The following sections provide further justification for the heights now put forward in our development proposal, which are considered a modest increase and generally consistent with the requirements of the LAP.

We submit that the Planning Authority, through the SHD process, has a role to play in ensuring the objectives of strategic documentation are implemented:

*“Increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and our planning process must actively address how this objective will be secured.” (NPF)*

The publication of the Guidelines denotes a strong effort from Government to introduce increased heights with greater densities, to ensure required sustainable growth in urban areas. The Building Height Guidelines in this instance are the predominant context for assessment of height.

It is our professional planning opinion that the design ensures the development potential of this underutilised brownfield site is maximised while maintaining the amenity of adjoining properties in the surrounding area.

### **5.3 Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2018 (Updated 2020)**

Section 2.2. of the Guidelines stated that *“apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.”*

Section 2.3 goes on to state that *“City and County Development Plans must appropriately reflect this, in the context of the need to both sustainably increase housing supply and to ensure that a great proportion of housing developments takes place within the existing built up area of Ireland’s cities and towns. This means making provision for more residential development to take place on infill and brownfield sites and as refurbishment of existing buildings, to increase urban residential densities.”*

Section 2.23 of the Guidelines also recognises that the National Planning Framework *“signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance-based standards to ensure well-designed high-quality outcomes. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.”*

Having regard to Section 2.4 of the Guidelines, the subject site can accommodate higher density development on the basis of its central and accessible location. The site is within walking distance of Tallaght Town Centre (less than 15min), TU Dublin (10min) and Belgard Luas Stop (less than 17min).

The Guidelines also state that the rigid application of numerical limits on height (as set out in the County Development Plan) is not appropriate and performance-based standards should be relied upon in the assessment of such schemes. It is submitted that the proposed development performs exceptionally well when tested against the relevant criteria – as set out in section 5.2 of this Report.

## Residential Mix

In regard to residential mix, SPPR 1 states:

**“Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).”**

The proposed development is compliant with the above SPPR for the following reasons:

- No more than 38% of the proposed units are one-bedroom units.
- 96no. 1-bed units out of a total of 242no. units in the scheme.
- The proposed units range in size thereby providing a variety of possible accommodation in line with the provisions of the 2018 Apartment Guidelines.

Notwithstanding the development’s compliance with the Apartment Guidelines, the proposed development will add to the variety of unit/house types in the wider vicinity, of which a number of low density (3 bedrooms or more) houses are dominant.

In relation to Building Height, Apartment Mix, plot ratio and land use mix we again note the following from Section 9 (3) of the SHD Act which states that:

*“(a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.*

***(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.***

*(c) In this subsection “specific planning policy requirements” means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.”*

It is clear from the preceding sections of this report that the Development Plan Requirements in relation to unit mix, height and land use mix differs from SPPR1 and SPPR 6 of the apartment guidelines 2018 and provides general guidance in relation to the issue of height that are contrary to the provisions of the County Development Plan 2016-2022.

In accordance with Section 9 (3) of the SHD Act, the Board is therefore required to apply the provisions of the Apartment Design Guidelines 2018 instead of the Development Plan provision when making a decision on an application pursuant to the SHD Act. As the proposed development is consistent with SPPR 1 and SPPR 6 of the 2018 Apartment Guidelines, the Board is not precluded from Granting permission for the proposed development. The matter of height is further discussed in the previous sections.

## 5.4 Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031

The purpose of the RSES is to provide a long term strategic planning and economic framework in order to support the implementation of Project Ireland 2040. The RSES includes the Dublin Metropolitan Area Strategic Plan (MASP) which aims to unlock the development capacity of strategic areas within the metropolitan area.

### MASP Housing and Regeneration

**RPO 5.4:** *“Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities.’”*

## Consolidation and Re-Intensification

**RPO 4.3:** “Support the consolidation and re-intensification of infill/brownfield sites **to provide high density and people intensive uses** within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.”

It is clear that the RSES supports continued population and economic growth in Dublin City and suburbs, with high quality new housing promoted and a focus on the role of good urban design, brownfield redevelopment and urban renewal and regeneration. It is set out that there is an opportunity to promote and improve the provision of public transport and active travel and the development of strategic amenities to provide for sustainable communities.

The current proposal delivers a consolidated approach to development in that it maximises on height, delivers an appropriate site coverage and residential density along a key public transport corridor.

The proposal seeks to redevelop a prime suburban brownfield site within the metropolitan area of Dublin. The delivery of residential development at this location is considered appropriate to this built up area of Dublin.

The development proposal delivers an appropriate level of residential density at 172 units per ha (gross site area) and has had regard specifically to standards as set out in the ‘Sustainable Urban Housing - Design Standards for New Apartments Guidelines for planning Authorities (2018)’ and ‘Urban Development and Building Heights Guidelines for Planning Authorities (2018)’ in ascertaining an appropriate residential density, height and car parking provision for the site.

Increasing demand for rental accommodation is being seen in urban centres among a variety of population demographics. The RSES goes on to state “There is a need to incentivise mobility in the housing market, to address social isolation among older people and to offer more choice by way of an increased supply of accommodation for all life stages.”

This is evident in the following policies:

**RPO 9.4:** “Design standards for new apartment developments should encourage a wider demographic profile which actively includes families and an ageing population.”

**RPO 5.5:** “Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.”

Having reviewed the key policies of the RSES document, we are of the view that the current proposal complies with the spirit and intent of the RSES.

It is clear from the above referenced documents that the development of strategic residential sites, such as the subject site, should ensure that higher density residential developments are delivered. Restrictions on allowable building heights, plot ratio and housing mix and land use mix outlined in the LAP, are clearly in conflict with objectives discussed above in this section.

## 5.5 South Dublin County Development Plan 2016 - 2022

The South Dublin County Development Plan 2016-2022 has the overarching policy to provide for the following:

***“It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.”***

Furthermore, specific objectives are detailed out below which relate to standards with regards to residential building heights:

**H9 Objective 1:** *“To encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity.”*

**H9 Objective 2:** *“To ensure that higher buildings in established areas respect the surrounding context.”*

**H9 Objective 3:** *“To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Height).”*

**H9 Objective 4:** *“To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme.”*

**UC6 Objective 3:** *“To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centre, **Regeneration** and Strategic Development Zones, and subject to an approved Local Area Plan or Planning Scheme.”*

It is proposed, as part of this scheme, to apply for a residential development ranging from 4 to 7 storeys. The ‘REGEN’ zoning cited above, provide a supportive context for residential development to occur.

The subject site is located at a prominent central location within the Broomhill Industrial Estate. We can therefore confirm that it fulfils the ‘location’ and ‘use’ objectives set out in **H9 Objective 4 and UC6 Objective 3**.

The accompanying Combined Planning Report and Statement of Consistency prepared by Brock McClure Planning and Development Consultants details further the close proximity of the subject site to amenities, facilities and employment hubs and emphasis the strategic location of the subject site.

In general support of our proposal to increase the height beyond that envisaged by the LAP, we put forward our Client’s intention to provide much needed housing at this strategically located site. It is their intention to maximise the number of units and bedspaces at this location, and have a clear design rationale for doing so, which is fully supported by all Design Team members.

The surrounding commercial and partially vacant lands are not sensitive in nature. The proposal at 4-7 storeys can be absorbed into the regeneration zoned area and emerging residential context with permitted developments in the locality. It does not preclude the development of adjoining sites.

**H8:** *“It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.”*

**H8 Objective 1:** *“To ensure that the density of residential development makes efficient use of zoned lands and maximises the value of existing and planned infrastructure and services, including public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).”*

**H8 Objective 2:** *“To consider higher residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).”*

**H8 Objective 5:** *“To ensure that developments on lands for which a Local Area Plan has been prepared comply with the local density requirements of the Local Area Plan.”*

We argue that the height and plot ratio restrictions designated for the site under the LAP, conflict with policy objectives H8 and H9 of the Development Plan.

In response to the above, it is noted that the residential density of 172 units per ha (gross) is appropriate having regard to the regeneration zoning of the site, proximity to public transport and physical and social infrastructure located in the Town Centre. The existing and proposed infrastructure have the capacity to support the proposed development.

The Tallaght LAP expresses the intensity and density of development through plot ratio and building height standards. The plot ratio requirement for the site is 0.75 to 1.0. The proposed development which generates a plot ratio of 1.6 is not therefore consistent with the above policy. We refer to the Material Contravention Statement prepared by this office, which sets out that it is our opinion that the residential density positively contributes to the surrounding area by virtue of its location and proximity to public transport services, employment and educational facilities and local amenities within Tallaght Town Centre.

**H10:** *“It is the policy of the Council to ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the County in accordance with the provisions of the Interim South Dublin County Council Housing Strategy 2016-2022.”*

**H14:** *“It is the policy of the Council to ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long term needs of a variety of household types and sizes.”*

The proposal provides a mix of units including 96 no. 1 bed, 141 no. 2 bed and 5 no. 3 bed apartments. Of these, approximately 24 no. units are allocated for social housing use. The apartment mix provides greater variation to housing tenure in the area. Kilnamanagh to the north east of the site, for instance, is dominated by 3 bed semi-detached houses. All units are designed in accordance with apartment guidelines. We refer to the Housing Quality Assessment prepared by John Fleming Architects for more information.

All units are designed to allow for internal flexibility over the lifetime of the scheme. The internal communal areas comprising reception, gym, lounge, co-working space, events rooms and ancillary areas cater to the changing needs of residents. The spaces could be reconfigured to suit alternative uses, as required.

## 6 CONCLUSION

In light of the foregoing, it is respectfully requested that An Bord Pleanála now have regard to the justification set out within this statement and permit the proposed contraventions of the South Dublin County Council Development Plan 2016 and the Tallaght Local Area Plan 2020.

This approach can be taken on the basis of the provisions of section 37(2)(b) (i) and (iii) of the Planning and Development Act, 2000 (as amended) and notably on the basis that:

- The proposed development is of strategic importance, that being that the proposal qualifies as a Strategic Housing Development by virtue of the nature of the definition identified under the Planning and Development (Housing) and Residential Tenancies Act, 2016.
- There are conflicting objectives in the LAP in relation to height, density and the provision of housing.
- Permission can be granted for the proposal given the clear compliance of the proposed development with national policy and guidance on the matter of height and specifically the recent publication of the following documents:
  - ***“Project Ireland: National Planning Framework 2040’***
  - ***‘Housing for All – A New Housing Plan for Ireland’***
  - ***‘Urban Development and Building Height - Guidelines for Planning Authorities 2018’***
  - ***‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018’;***
  - ***‘Regional Spatial and Economic Strategy for the Eastern and Midlands Region 2019-2031’; and***
  - ***‘South Dublin County Development Plan 2016 - 2022’***

It is on this basis that An Bord Pleanála can now favourably consider the proposal as justified in this statement. We trust that due consideration will be given to the content of this report in the assessment of this matter.